

Interview Summary

On January 6, 2010, Examiner Chui and her supervisor Examiner Haghighatian kindly granted Applicant's attorney a telephonic interview to discuss aspects of the current Office Action (dated 12/10/2009). The issue discussed involved the Office Action's earlier finding that a synergistic effect was demonstrated by data in Tables 4-6 of Applicant's specification, but that data in Examples 13 and Table 13 of Applicant's specification only demonstrated an additive effect and did not demonstrate an unexpected or synergistic effect. Upon further examination of the data in Table 13, the Examiners agreed that the data in Applicant's specification did, in fact, demonstrate an unexpected synergistic effect. The Examiners suggested that the inclusion of functional language into claim 1 related to the observed synergistic effect would be helpful in resolving any prima facie case of obviousness, had that case been made. Applicant's attorney agreed to consider such an amendment, without agreeing that a prima facie case of obviousness had been made.

Applicant indicated that additional arguments would be provided in the next response related to the failure of the Office Action to establish a prima facie case of obviousness and the Examiner's agreed to consider such arguments upon receiving the Office Action Response.